REGULATION (EEC) No 2136/75 OF THE COMMISSION

of 14 August 1975

on a standing invitation to tender for the mobilization of Community white sugar as food aid for UNRWA

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 1052/73 (1) of 17 April 1973 on the supply of sugar to UNRWA as food aid pursuant to the Agreement with that agency dated 18 December 1972 (2), as amended by Regulation (EEC) No 611/75 (3), and in particular Article 1 (3) thereof;

Having regard to Council Regulation (EEC) No 3330/74 (4) of 19 December 1974 on the common organization of the market in sugar, and in particular Articles 17, 19 and 34;

Whereas in accordance with Commission Regulation (EEC) No 1071/75 (5) of 24 April 1975 on a standing invitation to tender for the mobilization of white sugar as food aid for UNRWA, as amended by Regulation (EEC) No 1332/75 (6), Denmark should be entrusted with the issue of the invitation to tender for the mobilization of white sugar to be purchased on the world market;

Whereas the shortage of white sugar on the world market has so far prevented the awarding of contracts for the total quantity of sugar put out to tender; whereas the present situation regarding the price and supply of sugar in the Community permits contracts to be awarded under normal conditions for the supply in the remaining quantity to UNRWA in respect of the sugar marketing year 1974/75 by purchasing white sugar produced and put into free circulation in the Community; whereas therefore after the conclusion of the abovementioned invitation to tender a new one should be issued providing that this sugar shall be of Grade 1 as defined by Commission Regulation (EEC) No 1280/71 (7) if 18 June 1971 laying down detailed rules for the buying in of sugar by intervention agencies, as last amended by Regulation (EEC) No 2733/73 (8);

Whereas export refunds and levies should not apply to this invitation to tender;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

1. Denmark shall issue on behalf of the Community a standing invitation to tender for the supply of a total quantity of 3 094 metric tons of white sugar produced and put into free circulation in the Community as food aid to UNRWA and, during the period of validity of this standing invitation, shall issue partial invitations each week.

This quantity shall be made up in lots A and B.

2. The standing invitation to tender shall relate to the price of each one of lots A and B to be supplied cif on quay at the port of discharge, such lots being made up as indicated in the Annex. The sugar shall be of Grade 1 as defined by Article 11 (1) of Regulation (EEC) No 1280/71.

3. No export levy or refund shall apply to the quantity referred to in paragraph 1.

Article 2

During the period of validity of the standing invitation partial invitations to tender shall be issued in accordance with Regulation (EEC) No 1052/73 and with the following provisions.

Article 3

The standing invitation to tender shall remain open until a date to be determined.

Article 4

1. The period for the submission of tenders in respect of the first partial invitation shall begin on the day of publication of the standing invitation to tender in the *Official Journal of the European Communities* and shall expire at 10 a.m. on 27 August 1975.

(1) OJ No L 105, 20. 4. 1973, p. 1.
(2) OJ No L 304, 31. 12. 1972, p. 24.
(3) OJ No L 64, 11. 3. 1975, p. 1.
(4) OJ No L 359, 31. 12. 1974, p. 1.
(5) OJ No L 105, 25. 4. 1975, p. 21.
(6) OJ No L 135, 27. 5. 1975, p. 11.
(7) OJ No L 133, 19. 6. 1971, p. 34.
(8) OJ No L 282, 9. 10. 1973, p. 8.

2. The period for the submission of tenders in respect of the second and subsequent partial invitations shall :

(a) begin on the first working day following the expiry of the preceding period, and

(b) expire at 10 a.m. on the Wednesday of the following week.

Article 5

1. Denmark shall draw up a notice of invitation to tender. This notice shall be published in the *Official Journal of the European Communities.*

2. The notice of standing invitation to tender shall be published only for the purpose of issuing it. The notice may be amended at any time during the period of validity of the standing invitation. It shall be amended if the terms of the said invitation are amended during the said period.

3. The notice shall indicate in particular the terms of the invitation to tender.

Article 6

1. Tenderers shall either deliver written tenders to the competent body in Denmark against a receipt, or address tenders to that body by registered letter, telex or telegram.

2. Tenders shall specify :

(a) the invitation to which the tender relates ;

(b) the lot concerned ;

(c) the name and address of the tenderer ;

(d) the price in Danish kroner proposed for the lot in question ;

(e) the Member State in which the tenderer, in the event of his being declared successful, intends to complete the customs formalities for the export of the sugar.

3. A tender shall be valid only if :

(a) it relates to a price referred to in Article 1 (2) ;

(b) proof is furnished before the period for the submission of tenders expires that the security for tender referred to in Article 7 has been provided ;

(c) it includes a declaration by the tenderer that he will, if awarded the contract, supply the sugar in accordance with the provisions of this Regulation.

4. A tender which is not submitted in accordance with the provisions of this Article, or which contains terms other than those indicated in the notice of invitation to tender, shall not be taken into consideration.

5. Once a tender has been submitted it may not be withdrawn.

Article 7

1. The security required for the tender shall be 63 760 units of account for lot A and 60 000 units of account for lot B.

2. The security shall be provided, at the option of the tenderer, either in cash or in the form of a guarantee by an establishment complying with the criteria laid down by Denmark.

3. Except in cases of *force majeure,* the security shall be released only if :

(a) the successful tenderer supplies the sugar in accordance with the prescribed terms, and after submission of copy No 1 of the export licence duly attributed and endorsed by the competent authorities of the Member State specified in the tender ;

or

(b) the tender is not accepted.

4. In cases of *force majeure,* the competent body shall determine the measures necessary in the light of the circumstances invoked by the tenderer.

5. In the case provided for in paragraph 3 (a), the security shall be released when final payment is made as provided for in Article 10 ; in the case provided for in paragraph 3 (b) the security shall be released immediately.

Article 8

1. Tenders shall be examined in private session by the competent body. Subject to paragraph 2, persons present at the examination shall be sworn to secrecy.

2. The tenders shall be communicated without names attached to the Commission without delay.

3. In order that the tenders shall be directly comparable, their prices shall be adjusted, where necessary, by the monetary compensatory amount applicable to exports from the Member State specified in the tender on the closing date for the submission of tenders.

Such adjustment shall be made by :

— increasing the price in the case of tenders specifying a Member State whose currency has depreciated ;

— reducing the price in case of tenders specifying a Member State whose currency has appreciated.

The monetary compensatory amount shall be converted into Danish kroner at the following rates of exchange :

— where the currencies concerned are maintained at any given moment within a maximum band of 2·25 %, such rate of exchange as represents their central rate ;

— in other cases, the average of the spot rates for the currencies concerned as recorded in Denmark during the period from the Wednesday of one week to the Tuesday of the following week being the period which immediately precedes the closing date for the submission of tenders.

Article 9

1. The price shall be for delivery cif on quay at the port of destination in respect of each lot specified in the Annex.

2. The sugar shall be supplied in new jute sacks with a polyethylene lining :

(a) of a minimum weight of 450 grammes with a net content of 50 kilogrammes, or

(b) of a minimum weight of 700 grammes with a net capacity of 100 kilogrammes.

3. The sugar in question shall have been produced and put into free circulation in the Community.

4. The sugar shall be delivered cif fo at the latest by the date and to the ports specified in the Annex.

If, in respect of any lot of sugar, no contract is awarded at the first partial invitation to tender, the date of delivery shall be postponed for a period equal to that between the dates of the first partial invitation to tender and the partial invitation at which a contract of the said lot is awarded.

5. Sampling and analysis shall be carried out by experts approved by the authorities of the Member State referred to in Article 15 (1). All the costs of weighing, sampling and quality control at the time of loading shall be paid by that Member State. That State shall obtain a lump sum from the successful tenderer in respect of the said costs of 1 594 units of account for lot A and 1 500 units of account for lot B, which amounts the tenderer should therefore include in his tender. The successful tenderer shall pay such fixed amount at the time of export to the said Member State.

Article 10

Without prejudice to Article 15 (2), the competent Danish body shall pay the successful tenderer a provisional sum equal to 90 % of the price quoted in his tender, on presentation by the tenderer of proof that the lot of sugar in question has been delivered cif fo at the specified port of destination. This proof shall consist of a certificate drawn up by a specialized international control and surveillance agency approved by UNRWA.

In addition, the tenderer shall submit to the competent Danish body a copy of the shipping document.

Final payment shall be made as soon as the competent Danish body has received the documents drawn up by UNRWA certifying that the sugar has been delivered cif on quay at the stipulated port of discharge and in accordance with the conditions laid down. These documents shall be sent directly by UNRWA to the said body at the latest during the month following the end of the period provided for in Article VI of the Agreement.

Article 11

The maximum price for supplying each lot of sugar shall be fixed after examination of the tenders, in accordance with the procedure laid down in Article 36 of Regulation No 3330/74.

However, a decision may be taken to make no award.

Article 12

1. Except where a decision is taken to make no award in respect of a partial invitation to tender and without prejudice to the provisions of paragraph 2, the contract shall be awarded to the tenderer whose tender, when converted into units of account, is the lowest for the lot in question after taking into account the adjustment referred to in Article 8 (3).

2. If several tenderers tender at the same price for the same lot and that price is accepted, the successful tenderer shall be chosen by drawing lots.

Article 13

1. The successful tenderer shall be :

(a) entitled to be issued with an export licence in respect of the quantity of sugar in question stating that the monetary compensatory amounts for export to third countries shall not apply and bearing the endorsement 'for export without levy or refund (Regulation (EEC) No 2136/75' ;

(b) entitled, without prejudice to the other provisions of this Regulation, to payment of the price quoted in the tender for the lot in question ;

(c) obliged to apply for the abovementioned licence for the sugar in question and to deliver it in accordance with the terms of the notice of invitation to tender.

2. The rights and obligations arising from the award of the contract shall not be transferable.

Article 14

1. The competent Danish body shall immediately notify all tenderers of the outcome of their participation in the invitation to tender and shall also send a statement of award to the successful tenderer.

2. Statements of award shall specify at least :

(a) the invitation to which the award relates ;

(b) the lot concerned ;

(c) the price accepted in Danish kroner.

Article 15

1. The competent body of the Member State from whose territory the sugar concerned is exported shall verify that the necessary conditions for the delivery have been complied with. Where appropriate, it shall inform without delay the competent Danish body which carried out the invitation to tender.

The successful tenderer shall be responsible for all operations relating to any contract awarded pursuant to this Regulation, and in particular for supplying to the competent Danish body the information required by Articles 2 and 3 of Annex II of the Agreement. Denmark shall forward this information as soon as possible to the Commission.

2. Without prejudice to Article 7 (3) the price accepted shall be reduced by :

(a) 0·60 unit of account per 100 kg of sugar if the sugar is of Grade 2 as defined in Regulation (EEC) No 793/72 [1] ;

(b) 0·10 unit of account per 100 kg of sugar per day if the sugar is delivered after the prescribed date, except where the delay is due to a case of *force majeure* recognized as such by the competent Danish body.

3. If the sugar is of a grade lower than that stipulated in paragraph 2 (a) it shall be rejected and any consequent loss borne by the successful tenderer.

Article 16

This Regulation shall enter into force on 15 August 1975.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 August 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

Lot	Port of loading	Quantity in metric tons	Quality	Port of discharge	Latest date for delivery [1]
A	Community ports	1 594	Grade 1	Beirut (Lebanon)	8 October 1975
B	Community ports	1 500	Grade 1	Ashdod (Israel)	8 October 1975

[1] Subject as provided in the second subparagrah of Article 9 (4) of this Regulation.

[1] OJ No L 94, 21. 4. 1972, p. 1.